HIGH COURT OF UTTARANCHAL AT- NAINITAL.

Writ Petition No. 746(S/B)2002

1. Neeraj Kuar Saxena S/o Sri Gauri Shankar Saxena,
   R/o House No. C-78, P.S. Kashipur,
   District Udham Singh Nagar.
2. Amer Azam S/o Sri Akhtar Hussain,
   R/o Mahuadabra Jashpur, P.S. Jaspur,
   District Udham Singh Nagar. ….Petitioners.

Vs.

State of Uttaranchal through,
Secretary Board of Basic Education,
And two others. ….Respondents.

Sri Arvind Vashishtha Ad. And Sri Yogesh Pande, learned counsel for the petitioners,
Sri H.M. Raturi, learned counsel for respondent no. 1 &
Learned Standing Counsel for the respondent nos. 2 & 3.

Hon'ble M.M. Ghildiyal, J.:

Heard Sri Arvind Vashishtha Ad. Assisted by Sri Yogesh Pande, learned counsel for the petitioners, Sri H.M. Raturi, learned counsel for respondent no. 1 and learned Standing Counsel for the respondent nos. 2 & 3.

By means of this writ petition, the petitioners have prayed to quash the advertisement dated 16th June 2002 issued by Basic Education Officer, Udham Singh Nagar for appointment of Assistant Teacher in Primary Schools of Basic Shiksha Parishad. It has been further prayed that the respondents be directed to consider the candidature of the petitioners for the selection of Assistant Teacher in pursuance to the advertisement dated 16th June 2002 in daily newspaper "Amar Ujala" published from Dehradun.

Grounds for challenging the advertisement is that the petitioners who had obtained CPED. from an Institution situated at Amravati run by the Maharashtra Govt., have been deprived to apply in pursuance to the aforesaid advertisement. The certificate issued from Amravati was recognized by the Govt. vide its order dated 24.08.1978.

The respondents have filed a counter affidavit. In the counter affidavit the respondents have taken the plea that the Govt. vide its order dated 11th August 1997 has de-recognized the certificate and if the petitioners are holding the same, they cannot be appointed as Assistant Teacher in view of the Govt. order dated 11th August 1997.

In the writ petition, the petitioners have made contradictory prayers. The first prayer is to quash the advertisement dated 16th June 2002, whereas in the second prayer, they have prayed that the respondents be directed to consider their candidature in pursuance of the said advertisement.

In any case, learned counsel for the respondents have submitted that pursuant to the advertisement dated 16th June 2002, the selection has already been made and the selected candidates have been posted. Since the petitioners have not impleaded the selected candidates, no adverse orders can be passed without impleading them as a party and without hearing them.

The petitioners have now confined their prayer that since the order dated 11th August 1997, on which the respondents are relying, has already been quashed by the Allahabad High Court on 23.08.1998 in writ petition no. 30711 of 1997 Rajendra Singh and others vs. Secretary Board of Basic Education, U.P. Allahabad High Court others. In case, if any advertisement for filling up the posts of Assistant Teacher in Basic Schools is advertised in future, the petitioners may be permitted to apply and their candidature may be considered. I find force in the contention made by learned counsel for the petitioners.

Accordingly, it is provided that in case any advertisement is published for filling up the posts in Basic Schools, the respondents shall not deny the petitioners to apply for the post on the basis of G.O. dated 11th August 1997.

With these directions, the writ petition is disposed of finally.

(M.M. Ghildiyal, J.)

July 14, 2004:
NCM: